

DEC 02 2005**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS****NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****FOR THE NINTH CIRCUIT****UNITED STATES OF AMERICA,****Plaintiff - Appellee,****v.****IGNACIO VERDUZCO-PADILLA,*****Defendant - Appellant.****No. 05-10068****D.C. No. CR-04-00054-LRH****MEMORANDUM****

**Appeal from the United States District Court
for the District of Nevada
Larry R. Hicks, District Judge, Presiding**

**Argued and Submitted November 15, 2005
San Francisco, California**

Before: SCHROEDER, Chief Judge, and RYMER and GOULD, Circuit Judges.

Ignacio Verduzco-Padilla appeals the sentence imposed following his guilty plea to violating 8 U.S.C. § 1326(a). We affirm.

* This spelling of Appellant's name differs from that in the district court's judgment. Throughout the district court proceeding, his name was spelled "Verdusco-Padilla." The name was spelled "Verduzco-Padilla" on the caption of the notice of appeal. We adopt this spelling because it is the one Appellant himself used in court documents bearing his signature.

** This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

Verduzco-Padilla argues that the district court failed to comply with Fed. R. Crim. P. 32, but the court alternatively denied Verduzco-Padilla's sentencing objections on the merits. It adopted the presentence report's guideline calculations, thereby resolving the dispute. *See United States v. Rigby*, 896 F.2d 392, 394 (9th Cir. 1990). As resentencing is not required on this account, Verduzco-Padilla recognizes that all his *Almendarez-Torres* arguments likewise fail. *See Almendarez-Torres v. United States*, 523 U.S. 224 (1998); *United States v. Weiland*, 420 F.3d 1062, 1079-80 n.16 (9th Cir. 2005) (holding that we remain bound to follow *Almendarez-Torres* unless it is explicitly overruled by the Supreme Court). Verduzco-Padilla did not controvert the accuracy of the presentence report's statement that he had been convicted in Washington on two counts of violating Wash. Rev. Code § 69.50.401. *See United States v. Romero-Rendon*, 220 F.3d 1159, 1164-65 (9th Cir. 2000). The statutory definition of this prior drug-trafficking offense qualifies it as an aggravated felony under the categorical approach. *See United States v. Chavaria-Angel*, 323 F.3d 1172, 1177-78 (9th Cir. 2003).

The district court also considered the factors set out in 18 U.S.C. § 3553(a). It did not plainly err in not taking into consideration personal factors that were not brought to its attention.

AFFIRMED.